

**Notice of Allowability**

Application No.

09/722,980

Examiner

Frank Duong

Applicant(s)

FIJOLEK ET AL.

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/27/00.
2. ☒ The allowed claim(s) is/are 1-33.
3. ☒ The drawings filed on 27 November 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4/21, 1/14, 9/28, 5/7
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is a response to communications dated 11/27/00. Claims 1-33 are pending in the application.

#### ***Information Disclosure Statement***

2. The information disclosure statements filed 5/7/01, 9/28/01, 1/14/02 and 4/21/03 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. They have been considered and placed in the application file.

#### ***Allowable Subject Matter***

3. Claims 1-33 are allowed.

4. The following is an examiner's statement of reasons for allowance:

The prior art of record, considered individually or in combination, fails to fairly show or suggest the claimed method for dynamic load balancing in a network system comprising: among other steps, a novel and unobvious step of *"intercepting the first message on a third network device prior to at least one first protocol server receiving the first message, wherein the third network device comprises a set of rules for load balancing of requests between a plurality of channel pairs, each channel pair having predetermined resources for a network device with predetermined capabilities"*, structurally and functionally interconnected with other limitations in a manner as recited in base claim 1. Dependent claims 2-20 further limit the allowable base claim 1.

The prior art of record, considered individually or in combination, fails to fairly show or suggest the claimed a network system for dynamic load balancing of requests from network devices comprising: among other elements, a novel and unobvious limitation of *"a third network device for load balancing of requests from network devices, the third network device intercepting the first message prior to at least one first protocol server receiving the first message and applying a set of load balancing policy rules to determine an assignment of the second network device to a predetermined channel pair based on capabilities of the second network device, a load factor associated with the channel pair or a threshold value defining a capacity of the channel pair"*, structurally and functionally interconnected with other limitations in a manner as recited in base claim 21. Dependent claims 22-33 further limit the allowable base claim 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

He et al (USP 6,671,259).

Wong et al (USP 5,835,727).

Tominaga et al, Problems and Solutions of DHCP, pages 1-10, 1995.

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Volz et al, DHC load balancing algorithm, Internet Draft, pages 1-8, March 2000.

Rabil et al, DHCP Failover Protocol, Internet Draft, pages 1-9, November 1997.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is (571) 272-3164. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frank Duong  
Examiner  
Art Unit 2666

January 11, 2005